

**[4910-13]**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 91, 93, 121, 135**

**[Docket No. FAA-99-5926; Amendment No. 93- 80]**

**RIN 2120-AG74**

**Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones.**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends special operating rules and airspace for those persons operating aircraft in the area designated as the Grand Canyon National Park Special Flight Rules Area (SFRA). Specifically, this action modifies the eastern portion of the SFRA and the Desert View Flight-free Zone (FFZ); establishes a corridor through the Bright Angel FFZ for future noise efficient/quiet technology aircraft; and modifies the Sanup FFZ to provide for a commercial route over the northwestern section of the Grand Canyon National Park (GCNP). In addition, this action makes editorial corrections to several previously issued special operating rules for this affected area. The FAA is taking this action to assist the National Park Service in fulfilling the statutory mandate of substantially restoring the natural quiet and experience in GCNP.

**EFFECTIVE DATE:** This final rule is effective on December 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** Joseph C. White, Airspace and Rules Division, ATA-400, Office of Air Traffic Airspace Management, Federal Aviation

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## **SUPPLEMENTARY INFORMATION:**

### **History**

On December 31, 1996, the FAA published three concurrent actions (a final rule, a Notice of Proposed Rulemaking (NPRM), and a Notice of Availability of Proposed Commercial Air Tour Routes) in the Federal Register (62 FR 69301) as part of an overall strategy to further reduce the impact of aircraft noise on the GCNP environment and to work with the National Park Service (NPS) in achieving its statutory mandate imposed by Public Law (Pub. L.) 100-91 of substantially restoring the natural quiet and experience in GCNP. The final rule amended Title 14, Part 93, of the Code of Federal Regulations by adding a new Subpart U to codify the provisions of Special Federal Aviation Regulation No. 50-2 (SFAR 50-2). Additionally, this rule modified the dimensions of the GCNP SFRA, established new and modified existing FFZs; established new and modified existing flight corridors; and established reporting requirements for commercial air tour operators operating in the SFRA. In addition, the final rule prohibited commercial air tours in the Zuni Point and Dragon corridors during certain time periods, and placed a temporary limit on the number of aircraft that could be used for commercial air tour operations in the GCNP SFRA. These provisions originally were to become effective on May 1, 1997.

On February 26, 1997, the FAA published a final rule that delayed the implementation of certain sections of the December 31, 1996, final rule ( 62 FR 8862). Specifically, this action

delayed the effective date, until January 31, 1998, of those sections of the rule that address the SFRA, FFZs, and flight corridors, respectively §§ 93.301, 93.305, 93.307. In addition, certain portions of SFAR No. 50-2 were reinstated and the expiration date extended. Implementation was delayed to allow the FAA and the NPS to consider comments and suggestions to improve the route structure. On December 17, 1997, the FAA took action to delay further the implementation of the above mentioned sections of the rule and continued the extension of certain portions of SFAR No. 50-2 until January 31, 1999 (62 FR 66248). On February 3, 1999, the FAA again took action to further delay implementation of the above mentioned sections and continued the extension of certain portions of SFAR No. 50-2 until January 31, 2000 (64 FR 5152). It is noted that these actions did not affect or delay the implementation of the curfew, aircraft cap, or reporting requirements of the rule, which were effective May 1, 1997.

### **Recent Actions**

On May 15, 1997, the FAA published a Notice of Availability of Proposed Routes and a companion NPRM (Notice No. 97-6) that proposed two quiet technology incentive corridors over the GCNP. The first corridor, through the Bright Angel FFZ, was planned for quiet technology aircraft use only. The second corridor, through National Canyon, would be for westbound quiet technology aircraft after December 31, 2001. The FAA, in consultation with the NPS and Native Americans, determined not to proceed with a corridor through National Canyon. Consequently, on July 15, 1998, the FAA withdrew Notice 97-6 (63 FR 38232) in its entirety.

On July 9, 1999, the FAA published two NPRMs (Notice 99-11 and Notice 99-12) to assist the NPS in achieving the statutory mandate imposed by Pub.L. 100-91 to provide for the substantial restoration of natural quiet and experience in GCNP by reducing the effect of aircraft

noise from commercial air tours on GCNP. Notice 99-11, Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones (64 FR 37296, Docket No. 5926) proposed to modify the dimension of the GCNP SFRA. The proposed changes to the SFRA would modify the eastern portion of the SFRA, the Desert View FFZ, the Bright Angel FFZ and the Sanup FFZ. Notice 99-12, Commercial Air Tour Limitations in the Grand Canyon National Park Special Flight Rules Area, (64 FR 37304, Docket No. 5927) proposed to limit the number of commercial air tours that may be conducted in the SFRA and to revise the reporting requirements for commercial SFRA operations. The specific proposals of Notice No. 99-12 are discussed in a final rule found elsewhere in this Federal Register.

On July 20, 1999 (64 FR 38851), the FAA published a notice announcing two public meetings on the NPRMs. The meetings, which were held on August 17 and 19, 1999, in Flagstaff, Arizona, and Las Vegas, Nevada, sought additional comment on the NPRMs and on the associated supplemental draft environmental assessment.

### ***Proposed Actions of Notice 99-11***

The airspace modification proposal, Notice No. 99-11, the subject of this final rule, proposed to modify the Grand Canyon SFRA and Desert View FFZ by moving the respective boundaries five (5) nautical miles to the east. The rationale for the proposal was to allow entry and exit to routes as well as to curtail travel over several Traditional Cultural Properties (TCP) on the eastern side of the GCNP, which concerns the Zuni, Hopi, and Navajo Tribes. These sites were identified through consultation with affected tribes in accordance with the National Historic Preservation Act (NHPA). It is noted that specific locations of these Traditional Cultural Properties are not identified pursuant to section 304 of the NHPA, which provides for

confidentiality of cultural and religious sites. In the proposed rule, the FAA sought to reduce the impact of air tours over these TCPs by the proposed modification of the eastern portion of the SFRA and the Desert View FFZ.

In addition, Notice No. 99-11 proposed to establish a provisional incentive corridor through the Bright Angel FFZ, one nautical mile in width, to be used in the future only by aircraft meeting a noise efficiency/quiet technology standard, which has yet to be developed.

This proposed incentive corridor would pass through the Bright Angel FFZ along the northern boundary of the current Bright Angel FFZ as defined in SFAR 50-2. Once quiet technology/noise efficient aircraft are defined and the Bright Angel FFZ is implemented, the FAA would anticipate a three fold benefit. First, fewer aircraft would be flying over the northern rim of the canyon along the Saddle Mountain Wilderness Area, where the NPS and U.S. Forest Service have indicated that noise-sensitive activity regularly occurs. Second, noise from the air tour aircraft would be dispersed between the northern boundary of the Bright Angel FFZ and the proposed incentive corridor, thereby reducing the level of concentrated aircraft noise along any one route. Third, opening this corridor only to aircraft meeting the noise efficiency/quiet technology standard would provide a valuable and tangible incentive for the air tour operators to convert to quieter aircraft. The Bright Angel Corridor could thereby provide the benefit of a reduction in the level of aircraft noise over time.

Finally, the FAA proposed to modify the Sanup FFZ to provide for a route over the northwestern section of the GCNP, and to provide for two transportation routes to Tusayan. The elimination of current routes Blue 1 and Blue 1A, to be replaced by Blue Direct North and Blue Direct South, would cause traffic to transit over the Sanup FFZ. To accommodate these two

routes, the FAA proposed to modify the northern portion of the Sanup FFZ so that the Blue Direct South does not fly over a FFZ. In addition, it was proposed to eliminate a small area in the northwestern portion of the Sanup FFZ to accommodate the Blue 2 air tour route. The FAA acknowledged that this modification would eliminate a small area of previously designated FFZ; however, the elimination of the Blue 1 and Blue 1A routes, which transit more pristine areas of the SFRA, would have added benefits for the restoration of natural quiet and experience in GCNP.

### ***Discussion of comments***

In response to Notice 99-11, the FAA received more than 1,000 comments, and 556 comments on Notice 99-12. Many commenters sent the identical comments to both dockets. Many of these comments included form letters from the air tour industry and supporters of environmental groups. Comments were also received from industry associations (e.g., Grand Canyon Air Tour Council (GCATC); Aircraft Owners and Pilots Association (AOPA); Helicopter Association International (HAI); Experimental Aircraft Association (EAA); National Air Transportation Association (NATA)); an environmental coalition (Sierra Club; Grand Canyon Trust; The Wilderness Society; Friends of the Grand Canyon; Maricopa Audubon Society; National Parks and Conservation Association; Natural Sounds Society; Quiet Skies Alliance); river rafting organizations (Arizona Raft Adventures; Grand Canyon River Guides); air tour operators (AirStar Helicopters; Sunrise Airlines; Southwest Safaris; Grand Canyon Airlines; Papillon Grand Canyon Helicopters; Windrock Aviation; Air Vegas; Heli USA; Eagle Jet Charter, Inc.); aircraft manufacturers (Twin Otter International, Ltd.; Stemme USA, Inc.);

tourism organizations (Grand Canyon Air Tourism Association; Arizona Office of Tourism); government officials (Arizona Speaker of the House; Arizona State Legislature; Governor of Arizona; Arizona Corporation Commission; Clark County Department of Aviation); and Native American tribes (Hualapai; Havasupai; Navajo). Some of the substantive comments include commissioned studies, and economic and noise impact analyses (J.R. Engineering; Riddel and Schwer).

The following is an analysis of the pertinent general comments received in response to Notice 99-11 by specific proposal and the rationale of the final rule.

#### ***AOPA Comments/Petition for Reconsideration***

AOPA, on behalf of its members, comments that the FAA should clarify the raised floors of the Marble Canyon and North Canyon sectors as amended in the 1996 final rule. Further, AOPA states that the FAA should include language clarifying that the new ceiling will not impact other types of non-commercial general aviation flights. AOPA comments that the elimination of the Fossil Canyon Corridor and the raised floors of the Marble Canyon and North Canyon sectors unfairly penalizes general aviation flights. AOPA recommends restoring the sector altitudes for general aviation overflights to the original altitudes of 5,999' MSL and 4,999' MSL respectively. In its comment, AOPA also refers to a January 15, 1997, petition for reconsideration of the December 1996 final rule. In that petition, AOPA raised similar issues as presented in its comment to the airspace modification proposal. Specifically AOPA asks that the FAA reconsider and (1) restore the floor of the North Canyon sector to 5,000 feet MSL for general aviation overflight; (2) restore the floor for the Marble Creek Canyon sector to 6,000 feet MSL;

(3) establish the Fossil Canyon for general aviation overflight; and (4) establish the proposed Tuckup corridor for general aviation flight.

FAA response and final rule action:

In the December 1996 final rule, the FAA took action to prohibit air tour operations in the Tuckup Corridor. However, the Tuckup Corridor has always been open to general aviation traffic. The FAA regrets that this was not made clear when it provided a map for public comment on the new routes. General aviation pilots should refer to the Grand Canyon VFR Aeronautical Chart (General Aviation), which clearly shows the Tuckup Corridor and its flight altitudes. The FAA stated that it was not modifying the Tuckup Corridor as recently as May 15, 1997, when it published Notice 97-6 proposing that certain corridors be established for quiet technology aircraft. Comments regarding Marble Canyon and Fossil Canyon corridors are addressed below.

The FAA apologizes for not responding to AOPA's petition earlier, but addresses and disposes of that petition in this final rule. The December 1996 final rule simplified the northeast sector of the SFRA by combining the Marble Canyon and the North Canyon sector into one sector and renaming the section the Marble Canyon Sector with the minimum sector altitude of 8,000 MSL. The route altitude for commercial air tour aircraft, for the most part, in this sector is 7,500 MSL, thus allowing for a 500 foot MSL buffer. The FAA is aware that between Cave Springs Rapids and Saddle Mountain, air tour operators are climbing so as to join the Saddle Mountain and North Rim air traffic (Black 1 route). Areas for general aviation operations are to be conducted at a slightly higher altitude than the commercial air tour routes to segregate general aviation operations from the relatively heavy commercial air tour operations. While the routes reserve different altitudes for different types of operations, they do not in any way assure

separation of individual aircraft (all pilots flying in the SFRA remain fully responsible for seeing and avoiding other aircraft). Consequently, it is not feasible to consider lowering the altitude for general aviation traffic in this sector below 8,000 feet MSL. Therefore, the FAA denies this portion of AOPA's petition for reconsideration.

AOPA also requests that the FAA consider and reopen the Fossil Canyon Corridor to general aviation traffic. In promulgating the December 1996 final rule, it was the FAA's intention to close the Fossil Canyon corridor for commercial air tour flights only. As stated in the preamble to that rule, the FAA found that the Fossil Canyon corridor was not heavily used for commercial air tour purposes and that the operators who do use the corridor will have alternative routes. The FAA inadvertently did not include the Fossil Canyon corridor in section 93.307, Minimum flight altitudes for commercial air tour aircraft and transient and general aviation operation. The FAA corrects that error in this rulemaking by making the Fossil Canyon Corridor available only to transient and general aviation operations at a flight altitude of 10,500 feet MSL and above.

### ***Delay of Rulemaking***

Twin Otter International, Ltd., and its affiliate, Grand Canyon Airlines, comments that the proposals should be withdrawn. These commenters state that they are prepared to pursue every remedy available to stop these proposals.

The Arizona Corporation Commission expresses concern over the lack of state input into the proposed rules to further restrict the air tour industry at GCNP. The Commission expresses that the Grand Canyon is an extremely important component of Arizona's tourism industry. It

believes that the same consideration should be given to Arizona officials that the FAA gave to Colorado officials in banning air tours over Rocky Mountain National Park.

FAA response and final rule action:

The FAA believes that Twin Otter's comment is directed to changes in the route structure and limitations on operations rather than the minor changes to the SFRA and FFZs of this rulemaking.

In response to the Arizona Commission, the FAA finds that this final rule does no harm to the Arizona tourist industry. The modification to the Sanup FFZ to accommodate two routes through the center of the park and the proposed extension of the SFRA do not restrict commercial air tours. The FAA has responded to the issues of changed routes and limits on operations in the appropriate documents published concurrently in the Federal Register. Thus the FAA does not believe it is necessary to delay implementation of this rule other than for training purposes.

***Modifying the SFRA and FFZs***

Air Vegas comments that it does not matter how the SFRA is realigned, because what really matters is how the route system is carved out of the SFRA.

The Maricopa Audubon Society recommends that the FAA close the Dragon Corridor (which is located just west of Hermit's Rest); this corridor impacts the Hermit, Boucher, Waldron, and Tonto trails. This commenter adds that the proposal would wrap tour flights closer around the south side of Point Sublime, which is "an unacceptable way to treat visitor experience at such a spectacular and noted backcountry vista site." Finally, this commenter says that FFZs need to be

large or they do not work and recommends enlargement of the Marble Canyon corridor and Powell Plateau area.

Clark County Department of Aviation says that Congress did not give the FAA the power to arbitrarily limit airspace. Clark County notes that the United States Court of Appeals for the District of Columbia Circuit recently stressed the need for agencies to identify "intelligible principles" guiding their actions under power delegated by Congress. *American Trucking Assn v. EPA*, No. 97-1440 D.C. Cir. 1999. Clark County states that the FAA must carefully revisit its decision to avoid creating a precedent that could affect flights over thousands of sites across the West for which some cultural, historic and/or religious claim could be made.

Arizona Raft Adventures says that there appears to be modest improvement on some of the reconfiguration of air tour routes, especially as pertains to the Colorado River in Marble Canyon (flights would be further away from the rim of the Marble Platform); the route which passes between the Bright Angel and Zuni corridors; and the National Canyon area (routes have moved south, providing relief to the Havasupai). The commenter points out, however, that there are other compromises, such as effects on Point Sublime, Point Imperial, and Saddle Mountain. This commenter concurs with others who call for the elimination of the Dragon corridor.

FAA response and final rule action:

The route structure for GCNP is being addressed in a separate disposition of comments document that is being published concurrently with this final rule.

In response to commenters who want to close the Dragon Corridor to aircraft overflights, the FAA did not propose such a change. NPS and FAA are seeking to impose the regulations

necessary to achieve substantial steps towards the statutory mandate. At this time, the agencies have decided not to close the Dragon Corridor.

The FAA disagrees with Clark County that it is arbitrarily limiting available airspace in GCNP. Congress mandated the goal of substantial restoration of natural quiet in GCNP in Pub. L. 100-91. Pub. L. established the process for substantially restoring the natural quiet and experience in GCNP. Additionally, Congress granted NPS the discretion to use its expertise to establish a definition of the substantial restoration of natural quiet. NPS determined that substantial restoration of natural quiet required that over 50% of the GCNP should be quiet 75-100% of the time. The NPS in its 1994 Report to Congress set forth the methods it would consider to achieve its goal of substantial restoration of natural quiet. The FAA, consistent with the direction of the statute, implements NPS ' recommendations unless it has safety concerns with the recommendations. Thus the statute and the NPS recommendations provide guiding principles for the agencies implementing the regulations effecting the statutory goal.

Additionally, the FAA has developed standards in its relations with the Native American Tribes and Nations and, as explained in the Final Supplemental Environmental Assessment, Chapter 4 (Sections regarding Noise and Department of Transportation Section 4(f)), the FAA has used the same criteria in these rulemakings as were used in evaluating the expansion of arrivals into Los Angeles International Airport. See *Morongo Band of Mission Indians v. FAA*, 161 F.3d 569 (9<sup>th</sup> Cir. 1998).

### ***Extending the SFRA east and modifying the Desert View FFZ***

The FAA received a number of comments opposing the SFRA expansion. AOPA also raises the issue that if hazardous weather or flight conditions required a route change that might penetrate the boundaries or transition area, the GCNP “has no controlling authority to contact for permission.” This commenter states that general aviation traffic will have difficulty safely avoiding the Sunny Military Operations Area (MOA) and “legally avoiding the SFRA when flying from the south to destinations such as Tuba City and Page.” AOPA recommends modifying the southeastern boundary “to allow at least five (5) nautical miles of airspace between the boundary of the SFRA and the Sunny MOA.” Moreover, AOPA also finds that this change is outside scope of Pub. L. 100-91 which relates to restoration of natural quiet, not protection of Native American Traditional Cultural Properties.

EAA comments that moving the SFRA boundary as well as the Desert View FFZ to the east imposes air space regulations on the Navajo Nation that did not previously exist. EAA further comments that this proposal pushes GA flights too close to the Sunny MOA. Some commenters state that this is an unnecessary infringement on the limited National Airspace available for public use.

Comments from general aviation pilots indicate that they do not want to see the boundaries of the Desert View FFZ expanded to the east because the canyons of the Little Colorado are a de facto flyway, serving as the obvious entrance point to Grand Canyon airport from the east.

AirStar Helicopters says that the extension of the Desert View FFZ will have a negative economical impact on the Navajo Nation through loss of business and will add cost to operators with the additional miles being flown. Likewise, a film industry spokesman from Locations

Southwest comments that he works with the Navajo and Hualapai in filming areas outside the jurisdiction of GCNP. His concern is that the extension of the Desert view FFZ may adversely affect his ability to film and thus affect the income of the two tribes. Papillon Helicopters comments that the Navajo tribe will lose fees paid in compensation for access to their lands. Such fees would now go to the NPS.

Sunrise Airlines comments that the proposed easterly expansion does not provide a benefit to the GCNP and therefore the boundaries should not be moved easterly from its current location. This commenter disagrees with the expansion of the Desert View FFZ. Although accommodating the concerns of the Native Americans may seem to be "the right thing to do"; it is not consistent with the intent of Pub. L. 100-91. Expanding the Desert View FFZ does nothing to restore natural quiet in the National Park, and the proposed easterly expansion of the FFZ is entirely outside the GCNP. This commenter posits that creating an FFZ outside the GCNP boundaries will set a very dangerous precedent giving implied rights to land owners.

The environmental coalition supports expanding the SFRA east onto the Navajo Nation and extending the Desert View FFZ five miles east thus offering some protection to the Little Colorado River and important Native American cultural sites.

FAA response and final rule action:

The FAA proposed the SFRA and Desert View FFZ expansion to improve the safe navigation of general aviation pilots, to realign the Desert View FFZ with the GCNP boundaries, and to protect TCPs. The FAA agrees that the proposed action could be perceived as forcing general aviation traffic closer to the Sunny MOA and compromise safety, especially in inclement weather. Further, it was not the intent of the proposal to establish a FFZ over non-park land.

Therefore, in this final rule the Desert View FFZ's eastern boundary will be moved back to the GCNP boundary. The SFRA boundary is moved 5 miles to the east as proposed.

Additionally, the FAA has modified the southeastern portion of the SFRA to allow three and a half (3 ½) nautical miles between the boundary of the SFRA and the Sunny MOA. The FAA finds that this action in the final rule both protects the confluence of the Little Colorado River and allows for safe general aviation transit through the area.

To operate safely in the vicinity of a MOA, general aviation operators should contact the appropriate flight service station to stay aware of actions in the MOA. The FAA also reminds general aviation visitors to GCNP that a provision for deviations into the SFRA is provided in section 93.305 for emergencies and other safety of flight situations.

### ***Bright Angel FFZ***

The FAA received several comments from air tour operators who maintain that the failure to immediately implement a quiet aircraft incentive route creates a disincentive to development of quiet aircraft technology and imposes a burden on operators that have already acquired quiet aircraft. Furthermore, these commenters state that the Bright Angel corridor would improve flight safety by giving air tour operators the ability to fly a safer route at a lower altitude.

Without the Bright Angel corridor operators must fly over Saddle Mountain Wilderness Area which is a longer route over higher terrain and increases aircraft direct operating costs by 20% .

The Grand Canyon River Guides Association opposes the proposed future incentive route for noise-efficient aircraft through the Bright-Angel FFZ because FFZs should be flight-free. The

FAA and NPS should not even consider such routes while the minimum goal of substantial restoration of natural quiet still has not been met.

Sunrise Airlines states that the expansion of the SFRA to the south will benefit the Bright Angel FFZ by placing aircraft further from this zone and therefore should be adopted west of the Zuni Point Corridor but not east of the Zuni Point Corridor where there is no benefit.

The environmental coalition opposes the addition of an ‘incentive corridor’ through the Bright Angel FFZ. These associations state that rather than allowing quiet aircraft to fly on more routes, quieter aircraft should be used to meet the existing substantial restoration requirement.

FAA response and final rule action:

The FAA reiterates its commitment to an incentive corridor as stated in NPRM 96-15, Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park. Adoption of such a corridor is consistent with the Comprehensive Noise Management Plan, which “will address the best available technology, provision of appropriate incentives for investing in quieter aircraft, and appropriate treatment for operators that have already made such investments.”

(61 FR 69338; December 31, 1996) However, the Bright Angel Corridor cannot be used until the standards for quiet technology are developed.

In this final rule the FAA retains the Bright Angel Corridor for future use by quiet technology aircraft once quiet technology is defined in a subsequent final rule. Additionally, the location of this incentive corridor would overlie the current location of the Black 1A and Green 1A routes. Consequently, the coordinates for this incentive corridor have been further defined using North

American Datum 83 (NAD 83) versus NAD 27. This new defined area will place the incentive corridor .6 to .8 nautical miles north of the coordinates that were proposed in Notice 97-6.

#### *Editorial corrections*

The FAA corrects an inadvertent error in the Toroweap/Shinumo FFZ. In SFAR 50-2, a portion of the airspace in the vicinity of the Hualapai Reservation was inadvertently included as part of the Toroweap FFZ, which was subsequently combined into the Toroweap/Shinumo FFZ in the 1996 final rule (61 FR 69331). The FAA never intended to extend the FFZ over the Hualapai Reservation. Therefore, a small circular area in the southeast portion of that FFZ, near Toroweap Overlook, is removed. This will allow the boundaries of the Toroweap/Shinumo FFZ to coincide with the boundaries of the Hualapai Reservation.

On December 31, 1996 the FAA published the Special Flight Rules in the Vicinity of Grand Canyon National Park final rule. The final rule amended part 93 of Title 14, Code of Federal Regulations (14 CFR), by adding a new subpart to codify the provisions of Special Federal Aviation Regulation (SFAR) 50-2, Special Flight Rules in the Vicinity of Grand Canyon National Park, AZ. However, the December 31, 1996 final rule contained a typographical error that inadvertently moved a portion of the northwestern boundary of the SFRA of the GCNP. This error causes a certain air tour route (Green 4) to fall partially outside of the SFRA.

Further, in describing the SFRA around the Peach Springs VORTAC, a typographical error of ten seconds in Latitude caused the SFRA not to be adjoined in this area.

The Tuweep Airstrip was unintentionally left out of SFAR 50-2. This omission causes the Tuweep Airstrip not to have charted information regarding general operating procedures used

within 3 nautical miles and below 3,000 feet above the airport's elevation. This action corrects those errors by revising the legal description of the SFRA boundary as described in section 93.301, and adding the Tuweep Airstrip to section 93.309(f).

### SFAR 50-2

SFAR 50-2 is removed in this final rule as of December 1, 2000. At that time the airspace modifications of this final rule will become effective to accommodate the new Blue Direct North and Blue Direct South routes. The FAA has determined that delaying implementation until December 1, 2000, will enable the air tour operators to ensure sufficient training on the new routes during a time period outside their peak season. Therefore, SFAR 50-2 is removed, effective December 1, 2000.

### **Environmental Review**

The FAA, in cooperation with NPS and the Hualapai Indian Tribe, prepared a Draft Supplemental Environmental Assessment (SEA) for the proposed rules to assure conformance with the National Environmental Policy Act (NEPA) of 1969, as amended, and other applicable environmental laws and regulations. Copies of the Draft SEA were circulated to interested parties and placed on the Docket, where it was available for review. On July 9, 1999, the Notice of Availability of the SEA for the Proposed Actions Relating to the GCNP was published in the

Federal Register (64 FR 37192). Comments on the Draft SEA were to be received on or before September 7, 1999.

Comments received in response to this Notice of Availability have been addressed in the final SEA published concurrently with this final rule. Based upon the final SEA and careful review of the public comments to the draft SEA, the FAA has determined that a finding of no significant impact (FONSI) is warranted. The final SEA and the FONSI were issued in February 2000. Copies have been placed in the public docket for this rulemaking, have been circulated to interested parties, and may be inspected at the same time and location as this final rule.

### **Economic Summary**

Any changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. A regulatory evaluation of the proposal is in the docket.

Because of the continued high public interest surrounding GCNP regulations and the potential implications within a small locality, the FAA has determined that this final rule will be "a significant regulatory action" as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The FAA, however, has determined that this final rule will not have a significant economic impact on

a substantial number of small entities (commercial air tour operators conducting flights within Grand Canyon National Park), and does not warrant further regulatory flexibility action.

Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this rule will not have a significant economic impact on a substantial number of small entities. In addition, the final rule will not have a significant impact on international trade.

### **Costs**

The costs associated with the reconfiguration of the Desert View and Bright Angel Flight-free Zones (FFZ) as described in 14 CFR §93.305, were accounted for in the December 31, 1996 final rule (61 FR 69302). This analysis therefore, is concerned only with the costs associated with the modifications to the reconfigurations.

### **Special Flight Rules Area**

The SFAR 50-2 Black 2 and Black 3 routes currently used are the only air tour routes that will be affected by the concomitant eastward shifts of the SFRA. The Black 2 route extends mostly over plateau, not the Canyon, and is utilized as an access route to the Black 1 tour route over the Canyon. The Black 2 route is not a prominent feature of any air tour. Information provided for the base year indicates that only one operator utilized the Black 2 route to conduct air tours of the Grand Canyon. Similarly, the Black 3 route is more of an access route within the SFRA to the more scenic Black 1 air tour route. Operators accessing the Grand Canyon via the

Black 3 route, however, split south at Imperial Point and remain on the Black 1 route through the Zuni Point Corridor.

The FAA believes that a shift in the Black 2 route eastward resulting from the eastward shift in the SFRA by five nautical miles will serve only to realign the access/approach to the Black 1 tour route. It will not alter the tour offerings of the individual operator discussed above, and any changes in the operator's variable operating costs resulting from adding five nautical miles to the overall air tour (about 2-3 minutes) are negligible. Similarly, the FAA believes there will be no impact on the operators entering the SFRA on the Black 3 route to conduct air tours of the Canyon. The eastward extension of the SFRA by five nautical miles will not necessarily add distance and time to the tours using the Black 3, but rather, it will tend to substitute distance and time in controlled airspace for distance and time in unrestricted airspace. Therefore, the FAA concludes that the costs for this part of the final rule are de minimus. However, as discussed in the comments section to the Regulatory Evaluation, Southwest Safaris may experience a cost impact due to the SFRA shift and the route change. The FAA can not assess the specific impact of the shift because it has not received data from Southwest Safaris to document the number of air tours conducted during May 1, 1997-April 30, 1998.

#### Bright Angel Flight-free Zone:

The FAA is establishing the Bright Angel corridor for future use by quiet technology aircraft. Readers must understand that until a standard for quiet technology aircraft is developed and adopted, this corridor will not be available for use.

The Bright Angel incentive corridor is parallel to the route that is currently depicted on the Grand Canyon VFR Aeronautical Chart as the Green 1A and Black 1A, or Alpha routes. This corridor will be available in the future only to noise efficient/quiet technology aircraft. Currently, the FAA and the NPS have not defined what is a noise efficient/quiet technology aircraft. Consequently, the route will not be available for immediate use except in weather emergencies but potentially should be available for use in the future.

#### Other Areas:

The Sanup FFZ will be modified to accommodate the new route system contained in the concurrent Notice of Route Availability. No estimated costs are associated with this alternative. In addition, no estimated costs are associated with reopening the Fossil Canyon Corridor.

#### **Cost Summary**

The FAA estimates that any costs associated with the SFRA expansion of five nautical miles to the east will be de minimus, except, possibly, in the case of Southwest Safaris, based on the same reasoning as previously stated. Also, the FAA determines that the modification to the Sanup FFZ, and the reopening of the Fossil Canyon Corridor will result in no additional costs. The potential cost of the incentive corridor through the Bright Angel FFZ cannot be estimated at this time. The potential cost will be estimated in a future regulatory evaluation for the rulemaking that defines noise efficient/quiet technology aircraft.

## **Benefits**

The primary benefit associated with this final rule is a reduction of circumnavigation costs for general aviation operators. The potential benefit of the incentive corridor through the Bright Angel FFZ cannot be estimated at this time. The potential benefit will be estimated in a future regulatory evaluation for the rulemaking that defines noise efficient/quiet technology aircraft.

The reopening of the Fossil Canyon Corridor will reduce circumnavigation costs for GA operators. The expansion of the eastern boundary of the SFRA addresses certain concerns of the Native Americans in that area while at the same time posing no perceived additional costs on operators. Benefits associated with the modification to the Sanup FFZ cannot be quantified without additional information regarding the air tour route alternative.

## ***Regulatory Flexibility Analysis***

The Regulatory Flexibility Act of 1980 establishes “as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.” To achieve that principal, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rational for their

actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act. However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This final rule will only have a de minimus cost impact on the certificate holders for whom cost have been estimated. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this rule will not have a significant economic impact on a substantial number of small entities.

### ***International Trade Impact Assessment***

The FAA has determined that the final rule will have no affect on non-U.S. operators of foreign aircraft operating outside the United States nor will it have an affect on U.S. trade or trade relations.

### ***Unfunded Mandates Assessment***

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104-4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a

written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of \$100 million or more (when adjusted annually for inflation) in any one year by State, local, and tribal governments in the aggregate, or by the private sector. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed “significant intergovernmental mandate.” A “significant intergovernmental mandate” under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments in the aggregate of \$100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that, before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan, which, among other things, must provide for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity for these small governments to provide input in the development of regulatory proposals.

This final rule does not contain any Federal intergovernmental or private sector mandates. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

### ***International Compatibility***

The FAA has reviewed corresponding International Civil Aviation Organization standards and recommended practices and Joint Aviation Authorities requirements and has identified no comparable amendments in foreign regulations.

### ***International Trade Impact Analysis***

In accordance with the OMB memorandum dated March 1983, Federal agencies engaged in rulemaking activities are required to assess the effects of regulatory changes on international trade. The modification to the FFZs and SFRA in Grand Canyon National Park of this final rule do not impact international trade for the air tour operators, Native Americans, and park visitors affected by this final rule.

### ***Federalism Implications***

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. The FAA has determined that this action will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the FAA has determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### ***Paperwork Reduction Act***

The Paperwork Reduction Act of 1995 requires that agencies consider the impact of paperwork and other information collection burdens imposed on the public. Under the Act, no person is required to respond to a collection of information unless it displays a valid Office of Management and Budget (OMB) control number.

There are no requirements for information collection associated with this proposed rule that would require approval under the Act.

## **List of Subjects**

### **14 CFR Part 91, 93, 121, 135**

Aircraft, Airmen, Aviation Safety, Air traffic control, Airports, Navigation (Air), Reporting and recordkeeping requirements.

## **Adoption of Amendments**

For the reasons set forth above, the Federal Aviation Administration amends parts 91, 93, 121, and 135 of Title 14 of the Code of Federal Regulations, effective December 1, 2000, as follows:

## **PART 91--GENERAL OPERATING AND FLIGHT RULES**

1. The authority citation for part 91 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506-46507, 47122, 47508, 47528-47531.

### **Part 91 [Amended]**

2. The authority citation for part 121 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 40119, 44101, 44701-44702, 44705, 44709-44711, 44713, 44716-44717, 44722, 44901, 44903-44904, 44912, 46105.

**Part 135 [Amended]**

3. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701-44702, 44705, 44709, 44711-44713, 44715-44717, 44722.

**SFAR No. 50-2 [Removed]**

4. In parts 91, 121, and 135, Special Federal Aviation Regulation No. 50-2, the text of which appears at the beginning of part 91, is removed.

**PART 93--SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS**

5. The authority citation for part 93 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

6. Section 93.301 is revised to read as follows. This supersedes § 93.301 published on December 31, 1996 (61 FR 69330) and delayed until January 31, 2001 (65 FR 5397, February 3, 2000).

**§ 93.301 Applicability.**

This subpart prescribes special operating rules for all persons operating aircraft in the following airspace, designated as the Grand Canyon National Park Special Flight Rules Area: That airspace extending from the surface up to but not including 18,000 feet MSL within an area bounded by a line beginning at Lat. 35°55'12" N., Long. 112°04'05" W.; east to Lat. 35°55'30" N., Long. 111°45'00" W.; to Lat. 35°59'02" N., Long. 111°36'03" W.; north to Lat. 36°15'30" N., Long. 111°36'06" W.; to Lat. 36°24'49" N., Long. 111°47'45" W.; to Lat. 36°52'23" N., Long. 111°33'10" W.; west-northwest to Lat. 36°53'37" N., Long. 111°38'29" W.; southwest to Lat. 36°35'02" N., Long. 111°53'28" W.; to Lat. 36°21'30" N., Long. 112°00'03" W.; west-northwest to Lat. 36°30'30" N., Long. 112°35'59" W.; southwest to Lat. 36°24'46" N., Long. 112°51'10" W., thence west along the boundary of Grand Canyon National Park (GCNP) to Lat. 36°14'08" N., Long. 113°10'07" W.; west-southwest to Lat. 36°09'30" N., Long. 114°03'03" W.; southeast to Lat. 36°05'11" N., Long. 113°58'46" W.; thence south along the boundary of GCNP to Lat. 35°58'23" N., Long. 113°54'14" W.; north to Lat. 36°00'10" N., Long. 113°53'48" W.; northeast to Lat. 36°02'14" N., Long. 113°50'16" W.; to Lat. 36°02'17" N., Long. 113°49'11" W.; southeast to Lat. 36°01'22" N., Long. 113°48'21" W.; to Lat. 35°59'15" N., Long. 113°47'13" W.; to Lat. 35°57'51" N., Long. 113°46'01" W.; to Lat. 35°57'45" N., Long. 113°45'23" W.; southwest to Lat. 35°54'48" N., Long. 113°50'24" W.; southeast to Lat. 35°41'01" N., Long. 113°35'27" W.; thence clockwise via the 4.2-nautical mile radius of the Peach Springs VORTAC to Lat. 35°38'53" N., Long. 113°27'49" W.; northeast to Lat. 35°42'58" N., Long. 113°10'57" W.; north to Lat. 35°57'51" N., Long. 113°11'06" W.; east to Lat. 35°57'44" N., Long.

112°14'04" W.; thence clockwise via the 4.3-nautical mile radius of the Grand Canyon National Park Airport reference point (Lat. 35°57'08" N., Long. 112°08'49" W.) to the point of origin.

7. Sections 93.305 and 93.307 published on December 31, 1996, (61 FR 69330), corrected at 62 FR 2445 and delayed at 65 FR 5397 become effective December 1, 2000.

8. Section 93.305 is amended by revising paragraph (a), by revising the last sentence and adding a new sentence to the end of paragraph (b), by revising paragraph (c), and by revising paragraph (d) to read as follows:

**§ 93.305 Flight-free zones and flight corridors.**

\* \* \* \* \*

(a) Desert View Flight-free Zone. That airspace extending from the surface up to but not including 14,500 feet MSL within an area bounded by a line beginning at Lat. 35°59'58" N., Long. 111°52'47" W.; thence east to Lat. 36°00'00" N., Long. 111°51'04" W.; thence north to 36°00'24" N., Long. 111°51'04" W.; thence east to 36°00'24" N., Long. 111°45'44" W.; thence north along the GCNP boundary to Lat. 36°14'05" N., Long. 111°48'34" W.; thence southwest to Lat. 36°12'06" N., Long. 111°51'14" W.; to the point of origin; but not including the airspace at and above 10,500 feet MSL within 1 nautical mile of the western boundary of the zone. The corridor to the west between the Desert View and Bright Angel Flight-free Zones, is designated the "Zuni Point Corridor." This corridor is 2 nautical miles

wide for commercial air tour flights and 4 nautical miles wide for transient and general aviation operations.

- (b) \* \* \* This corridor is 2 nautical miles wide for commercial air tour flights and 4 nautical miles wide for transient and general aviation operations. The Bright Angel Flight-free Zone does not include the following airspace designated as the Bright Angel Corridor: that airspace one-half nautical mile on either side of a line extending from Lat. 36°14'57" N., Long. 112°08'45" W. and Lat. 36°15'01" N., Long. 111°55'39" W.

- (c) Toroweap/Shinumo Flight-free Zone. That airspace extending from the surface up to but not including 14,500 feet MSL within an area bounded by a line beginning at Lat. 36°05'44" N., Long. 112°19'27" W.; north-northeast to Lat. 36°10'49" N., Long. 112°13'19" W.; to Lat. 36°21'02" N., Long. 112°08'47" W.; thence west and south along the GCNP boundary to Lat. 36°10'58" N., Long. 113°08'35" W.; south to Lat. 36°10'12" N., Long. 113°08'34" W.; thence in an easterly direction along the park boundary to the point of origin; but not including the following airspace designated as the "Tuckup Corridor": at or above 10,500 feet MSL within 2 nautical miles either side of a line extending between Lat. 36°24'42" N., Long. 112°48'47" W. and Lat. 36°14'17" N., Long. 112°48'31" W. The airspace designated as the "Fossil Canyon Corridor" is also excluded from the Toroweap/Shinumo Flight-free Zone at or above 10,500 feet MSL within 2 nautical miles either side of a line extending between Lat. 36°16'26" N., Long. 112°34'35" W. and Lat. 36°22'51" N., Long.

112°18'18" W. The Fossil Canyon Corridor is to be used for transient and general aviation operations only.

- (d) Sanup Flight-free Zone. That airspace extending from the surface up to but not including 8,000 feet MSL within an area bounded by a line beginning at Lat. 35°59'32" N., Long. 113°20'28" W.; west to Lat. 36°00'55" N., Long. 113°42'09" W.; southeast to Lat. 35°59'57" N., Long. 113°41'09" W.; to Lat. 35°59'09" N., Long. 113°40'53" W.; to Lat. 35°58'45" N., Long. 113°40'15" W.; to Lat. 35°57'52" N., Long. 113°39'34" W.; to Lat. 35°56'44" N., Long. 113°39'07" W.; to Lat. 35°56'04" N., Long. 113°39'20" W.; to Lat. 35°55'02" N., Long. 113°40'43" W.; to Lat. 35°54'47" N., Long. 113°40'51" W.; southeast to Lat. 35°50'16" N., Long. 113°37'13" W.; thence along the park boundary to the point of origin.

\* \* \* \* \*

4. Section 93.307 is amended by revising the headings for paragraphs (a)(1) and (b)(1) and adding a new sentence to the end of paragraph (b)(2)(iv) to read as follows:

**§ 93.307 Minimum flight altitudes.**

(a) \* \* \*

(1) Commercial air tours

\* \* \* \* \*

(b) \* \* \*

(1) Commercial air tours \* \* \*

(2) \* \* \*

**(iv) Fossil Canyon Corridor. 10,500 feet MSL.**

1. Section 93.309 is amended by revising paragraphs (b) and (f) to read as follows:

**§ 93.309 General operating procedures.**

\* \* \* \* \*

(b) Unless necessary to maintain a safe distance from other aircraft or terrain, proceed through the Zuni Point, Dragon, Tuckup, and Fossil Canyon Flight Corridors described in §93.305 at the following altitudes unless otherwise authorized in writing by the Flight Standards District Office:

(1) Northbound. 11,500 or 13,500 feet MSL.

(2) Southbound. 10,500 or 12,500 feet MSL.

\* \* \* \* \*

(f) Is conducted within 3 nautical miles of Grand Canyon Bar Ten Airstrip, Pearce Ferry Airstrip, Cliff Dwellers Airstrip, Marble Canyon Airstrip, or Tuweep Airstrip at an altitude less than 3,000 feet above airport elevation, for the purpose of landing at or taking off from that facility; or

\* \* \* \* \*

Issued in Washington, DC, on March 27, 2000

/s/

Jane F. Garvey

Administrator